FARAD CONTINUATION SHEET NO.:
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.8672 OF 2006

Office Notes, Office Memoranda of coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

Mr.Mahendra Kamthekar for petitioner.

Mr.A.S.Rao for respondent No.2.

Mr.Arun Palekar, AGP for respondent Nos.3 & 4.

Mr.R.S.Apte for respodnent Nos.5 & 6.

CORAM : H.L GOKHALE, ACTING C.J. & V.M.KANADE, J.

DATED : 31st January 2007

P.C. :

1. Heard the learned Counsel for the parties.

2. The grievance of the petitioner-Society is that although no particular bungalow was shown in the initial brochure of the proposed construction, under which its members paid towards the allotment of their flats, now a bungalow is being set up by respondent Nos.5 and 6 in

one part of the original Recreation Ground.

3. The case of respondent Nos.5 and 6 is that this is as per the plans which are altered subsequently and that a large number of the Society members are not objecting as such to this construction.

4. The petitioner has filed an Appeal to the Minister under Section 47 of the Maharashtra Regional and Town Planning Act and it is pending before him. This being the position, it will be desirable that the said Appeal is heard at the earliest.

5. Mr.Apte, learned Counsel appearing for respondent Nos.5 and 6, points out that according to respondent Nos.5 and 6, the said Appeal is beyond time, as against which the submission of the

petitioner is that the Appeal is filed within time i.e. from the date of knowledge of the disputed construction. That is an aspect which the Appellate Authority will look into.

6. Inasmuch as that Appeal is filed, the better course will be that the said Appeal to be decided at the earliest. Mr.Palekar, learned AGP, states that within eight weeks after the notices are served on the respondents, the Appeal will be heard. We expect that the notices to be issued within two weeks.

7. Mr.Apte appearing for respondent Nos.5 and 6 agrees that respondent Nos.5 and 6 will appear before the concerned Appellate Authority on Monday, 12th February 2007 at 11 A.M. when the petitioner should also remain present. If the date is not

convenient to the concerned Appellate Authority, another date will be given and the Appeal will be heard at the earliest and decided preferably within eight weeks thereafter.

8. Mr.Apte makes a statement that the disputed construction will halt in the meanwhile.

9. All contentions of all the parties will be available to them before the Appellate Authority.

10. Petition stands disposed of with the above order.

(ACTING C.J.)

(V.M. KANADE, J.)